

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

December 18, 2014

- I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Will Berkley; Patrick Brewer (arrived at 1:35 p.m.); Mike Cravens; David Drake; Karen Mundy; Mike Owens, Chair; Frank Penn; Carolyn Plumlee; Carolyn Richardson; Joe Smith; and Bill Wilson.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Cheryl Gallt; Janice Westlund; Chris Taylor; Meghan Jennings; and Stephanie Cunningham. Other staff members present were: Tracy Jones and Andrea Brown, Department of Law; Hillard Newman, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; and Greg Lengal and Joshua Thiel, Division of Fire and Emergency Services

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve the minutes of the November 20, 2014, meeting.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

Note: Mr. Brewer arrived at this time.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, December 4, 2014, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Karen Mundy, Joe Smith, Frank Penn, Carolyn Plumlee, and Mike Owens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Dave Jarman, Denise Bullock and Kelly Hunter, as well as Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

Note: The Planning Commission postponed this item at their December 11, 2014, meeting.

- A. **PLAN 2014-96F: GLEN CREEK (DOVE CREEK, UNIT 3-B, SECTION 3, LOTS 66-75) (2/1/15)* - located at 201-1145 Appian Crossing Way. (Council District 8) (Trinity Surveying)**

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the required access to the proposed lots.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Denote private utility providers on plat.
9. Clarify extent of access easement (24' wide) on side of Lot 66.
10. Discuss the lack of required access (25' easement) to proposed lots.

Staff Presentation: Ms. Gallt presented this revised final record plat, noting that it was postponed at the Planning Commission's December 11th meeting due to some concerns about access to the 10 proposed lots. Since that meeting, the petitioner submitted a revised plan that depicts an access easement across the front of the property to serve the lots. She directed the Commission to a rendering of the latest submission, and identified the access easement.

Ms. Gallt stated that the staff is now recommending approval of this plan, subject to the revised conditions, as follows:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.

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4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Denote private utility providers on plat.
9. ~~Clarify extent of access easement (24' wide) on side of Lot 66.~~
- 9.10. ~~Discuss the lack of required access (25' Label 9' future access easement) to the north of these proposed lots (on Unit 3 – future phase).~~

With regard to condition #9, Ms. Gallt stated that this record plat depicts a 15' access easement, but the approved development plan for the property depicts a 24' easement. The staff recommended condition #9 to require that the petitioner denote the additional 9' width of access easement, in order to match the previously approved width of 24'. She said that the additional easement area could be created on a future plat for the adjacent property.

Petitioner Representation: Tony Justice, Trinity Surveying, stated that the petitioner was in agreement with the staff's recommendations, and requested approval.

Citizen Comments: There were no citizens present to comment on this proposal.

Action: A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 11-0 to approve PLAN 2014-96F, subject to the nine revised conditions as listed.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, December 4, 2014, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, Carolyn Richardson, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

1. WMM PROPERTIES, LLC, ZONING MAP AMENDMENT & WATTS FARM – TRACT 4, ZONING DEVELOPMENT PLAN

- a. MAR 2014-21: WMM PROPERTIES, LLC (1/4/15)* - petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.43 net (0.49 gross) acre, for property located at 435 Redding Road (a portion of).

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes a Neighborhood Business (B-1) zone to redevelop a sit-down restaurant into a fast food restaurant with an accessory drive-through window and associated off-street parking. The subject property is a portion of a larger tract that is already located within a B-1 zone.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reasons:

1. The requested Neighborhood Business (B-1) zone for a portion of property located at 435 Redding Road is appropriate, and the existing Planned Neighborhood Residential (R-3) zone is inappropriate for the following reasons:
 - a. The 2013 Goals and Objectives of the Comprehensive Plan are supportive of sustainable small neighborhood centers, which can provide for a better quality of life within the immediate area and reduce travel demands (Theme A., Goals 2.a. and 3.b.). This property is such a center.
 - b. The residentially-zoned portion of the property is already fully incorporated into the development, and is supporting the business use on the tract as a stormwater detention basin and accessory parking lot. Additionally, there is currently no landscape buffer or other separation between the business and residential zoning.
 - c. The requested B-1 zone will permit redevelopment of the property for a freestanding fast food restaurant and accessory drive-through facility. The current residential zoning, although approved for a conditional use for accessory parking, cannot accommodate the drive-through facility anticipated by the petitioner.
 - d. Shifting the B-1 zone line to the north approximately 40 to 80 feet will not impact the adjoining extended-stay hotel, or any other nearby residential uses.
 - e. The existing residential zoning is not large enough to support any type of residential use considering the geographical features of the property. That area acts as the service area for the adjoining businesses, is very

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narrow, and is already encumbered by stormwater facilities to support the commercial use of the property. These factors make construction of any residential use not viable or desirable.

2. This recommendation is made subject to approval and certification of ZDP 2014-96: Watts Farm – Tract 4, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. ZDP 2014-96: WATTS FARM, TRACT 4 (1/4/15)* - located at 435 Redding Road.

(Vision Engineering)

The Subdivision Committee Recommended: Approval, subject to the following requirements:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of existing tree inventory information.
6. Addition of Redding Road cross-section to plan.
7. Discuss note #9 from previous plan in reference to offsite stormwater retention area.

Zoning Presentation: Ms. Wade presented the staff report for this zoning map amendment request, briefly orienting the Commission to the location of the subject property on Redding Road near its intersection with Bates Creek Road. She stated that the petitioner is requesting to rezone two small "slivers" of property to the side and rear of the existing buildings on the parcel. Referring to an aerial photograph of the property, she noted the two existing buildings in this small strip shopping center, and a standalone building. The area proposed for rezoning is currently occupied by a parking lot and service area for the shopping center, as well as a small triangle currently used as a stormwater basin. The remainder of the subject property is already zoned B-1.

Ms. Wade stated that the petitioner is proposing to rezone a portion of the property in order to remove a portion of the existing shopping center and construct a standalone restaurant with a drive-through window. Although the subject property has been split-zoned R-3 and B-1 for many years, the proposed zone change is necessary at this time because the drive-through lane and order area for the new restaurant would be located in an area that is currently zoned R-3. As part of the principal use of the property, those areas need to be located in the B-1 zone.

Ms. Wade said that the petitioner contends that this requested zone change is supported by two of the Goals of the Comprehensive Plan that address small neighborhood shopping centers and the need for services to support adjoining residential areas. The small shopping center on the subject property is surrounded by residential uses, and does, or formerly did, provide services to those households. In addition, the staff found that the portion of the subject property that has residential zoning is already being used in a commercial manner, so rezoning it to B-1 will not significantly change the use of the parcel. Shifting the zoning boundary from the rear of the building to the rear property line will not impact the adjoining property, since it is occupied by an extended-stay hotel. The rear of the hotel faces that portion of the subject property, and the area immediately adjacent to the subject property is used only as a parking lot. Ms. Wade noted that it would be nearly impossible to use either of the areas currently proposed for rezoning for residential use, since one portion is encumbered by a stormwater facility and the other serves as the service area for the shopping center. She said that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Commission Question: Ms. Plumlee asked if the Planning Commission would see another plan for the subject property in the future. Ms. Wade answered that the corollary submittal is a final development plan, so the Commission will not have the opportunity to review the plan again.

Ms. Wade noted that the staff had received one letter of opposition to this request, which she circulated to the Commission members for their review.

Development Plan Presentation: Ms. Gallt presented the corollary zoning development plan, noting that the staff was recommending approval, subject to the seven conditions as listed on today's agenda. She said that condition #7 is a reference to an earlier plan for the subject property. A stormwater study was done in 1992, the result of which was that the detention basin on the property is sufficient to meet the requirements. Ms. Gallt stated that condition #7 could now be deleted.

Commission Questions: Ms. Plumlee asked how far the Redding Road/Walden Drive intersection is from the Redding Road intersection with Bates Creek Road, and what the minimum standard is for intersection spacing. Ms. Kaucher responded that the current minimum standard distance for intersection spacing is 500'; the distance between the Walden Drive and Bates Creek Road intersections with Redding Road is 320'. The distance, therefore, does not meet the minimum requirement. Mr. Sallee added that, when this portion of Walden Drive was originally

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developed, there was a great deal of discussion at the Planning Commission meeting about that spacing. Mr. Owens added that the intersection had been operating in its current configuration for a number of years.

Citizen Objection: Ann Wesley, Assurance Realty & Property Management, stated that her company manages the Aintree condominium development located at 421 Redding Road. She said that most of the owners in the condominium association are concerned about the additional traffic that could be generated by a drive-through restaurant on the subject property. The condominium development has only one exit onto Redding Road, which is located near enough to the Bates Creek Road/Walden Drive intersection that it is often blocked by traffic. Ms. Wesley added that there are 124 units included in the condominium owners association.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. The petitioner contends that the proposed zone change is in agreement with the 2013 Comprehensive Plan, and stated that the staff and the Zoning Committee had recommended its approval. The Technical and Subdivision Committees both recommended approval of their development plan, as well. Mr. Simpson stated that the subject property was developed over 20 years ago; the access points to Redding Road were established at that time, and they have not changed since then.

With regard to the concerns about additional traffic in the area, Mr. Simpson said that, as Lexington-Fayette County "grows in place," additional traffic is inevitable. He added that the petitioner does believe that the construction of the proposed new restaurant on the site could actually improve the traffic flow, as one of the existing drive-through windows on site would be improved. The petitioner has also proposed to direct traffic internally, away from the existing Thorntons gas station. Mr. Simpson said that the Division of Traffic Engineering has reviewed the plan, and they determined that the proposed adjustments to the property were acceptable. He reiterated that the petitioner believes that redevelopment of a portion of the property could actually result in improvements to traffic, and he requested approval of their application.

Commission Question: Ms. Mundy asked if the petitioner intended to encourage traffic flow from the drive-through window to use the exit furthest from the Bates Creek/Redding intersection. Mr. Simpson answered that the plan includes curved traffic islands, which are intended to direct traffic to the access point furthest away from that intersection. Ms. Mundy opined that, while it is impossible to totally control drivers' actions, drivers should be encouraged away from the busy intersection if at all possible.

Rebuttal: There were no rebuttal comments.

Zoning Action: A motion was made by Ms. Richardson, seconded by Mr. Brewer, and carried 10-1 (Plumlee opposed) to approve MAR 2014-21, for the reasons provided by staff.

Development Plan Action: A motion was made by Ms. Richardson, seconded by Mr. Brewer, and carried 10-1 (Plumlee opposed) to approve ZDP 2014-96, subject to the first six conditions as listed on the agenda, deleting condition #7.

2. MARK SAUNIER (AMD.) ZONING MAP AMENDMENT & BROCK McVEY & BARRY DOTSON PROPERTY, UNIT 2A, LOT 7 ZONING DEVELOPMENT PLAN

- a. **MAR 2014-23: MARK SAUNIER (AMD.) (2/1/15)*** - an amended petition for a zone map amendment from a Light Industrial (I-1) zone to a Wholesale & Warehouse Business (B-4) zone, for 0.032 net (0.085 gross) acre; and from a Planned Shopping Center (B-6P) zone to a Wholesale & Warehouse Business (B-4) zone, for 2.18 net (2.79 gross) acres, for property located at 2380 Fortune Drive.

COMPREHENSIVE PLAN AND PROPOSED USE

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The petitioner proposes a Wholesale and Warehouse Business (B-4) zone in order to permit land uses more in keeping with the character of the area, and better suited to the existing building style. This petition has been amended since its original filing to include rezoning of the entire lot at 2380 Fortune Drive.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reasons:

1. The requested Warehouse and Wholesale Business (B-4) zone is appropriate, and the existing mixture of Light Industrial (I-1) and Planned Shopping Center (B-6P) zoning is inappropriate at this location, for the following reasons:

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- a. The Fortune Drive corridor is characterized by warehouse and wholesale business land uses, with little retail, restaurant, or industrial uses that would be typical in either a B-6P or an I-1 zone. The proposed B-4 zone is compatible and consistent with the existing character of the area.
 - b. The existing structure and site can accommodate the proposed office/warehouse mixed-use project.
 - c. Although adjoined by residential zoning, residential dwelling units or other land uses permitted in the R-3 zone will need to be located a greater distance from the property due to two high pressure gas mains. This factor, along with a grade change, have ensured that a significant width of undeveloped property will remain between the subject property and any future development to the east.
2. This recommendation is made subject to the approval and certification of ZDP 2014-105: Brock McVey & Barry Dotson Property, Unit 2A, Lot 7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2014-105: BROCK MCVEY & BARRY DOTSON PROPERTY, UNIT 2A, LOT 7 (AMD) (2/1/15)* - located at 2380 Fortune Drive. **(Midwest Engineering)**

Note: The purpose of this amendment is to rezone the existing property.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote height of building on plan, in feet.
7. Denote developer's information on plan.
8. Denote final record plat information on plat.
9. Discuss B-6P 50' setback.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property, which is at the intersection of Fortune Drive and Trade Center Drive, east of New Circle Road. She said that most of the property on Fortune Drive is zoned B-4, but there are also a few I-1 parcels nearby. The subject property is primarily zoned B-6P, with a small triangle of I-1 zoning at the northern tip of the property. The property was previously part of a larger tract with its only frontage on New Circle Road; it was rezoned several times, the last of which was in the 1990s. The property on which the Sam's Club store is currently located was part of that parcel as well, but the subject property was not utilized as part of that development. Following the development of the Sam's Club store, Fortune Drive was extended and connected, severing the subject B-6P parcel from the remainder of the B-6P zoning in the area.

Ms. Wade stated that the petitioner constructed a building on the subject property last year, and has been able to find some tenants; he has found recently, however, that many current and prospective tenants are more interested in uses that would typically be found in the B-4 zone. The petitioner is proposing to rezone the entire parcel to B-4, which is consistent and compatible with the rest of the properties along Fortune Drive.

Ms. Wade displayed an aerial photograph of the subject property, noting that, at the time it was taken in March of 2013, the building on the property was under construction. She also noted the location of Patchen Wilkes Drive, where residential structures are currently being constructed near the rear of the subject property in the Tuscany development. The existing building on the property has a warehouse/wholesale-style appearance, rather than that of a typical retail building, and it does have rear overhead doors. Referring to the aerial photograph, Ms. Wade also noted the location of an existing significant Columbia Gas line and easement to the rear of the property, which will create some distance between it and the adjoining residential development. Trade Center Drive is proposed to be extended in order to eventually connect to Meeting Street within the Tuscany development, but, in the opinion of the staff, the residential development will not be close enough to the subject property to create an issue with the overhead doors.

Ms. Wade stated that the staff and the Zoning Committee recommended approval of this amended rezoning request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary final development plan, noting that the existing structure on the property is 24,000 square feet in size. The site has two access points to Fortune Drive, with traffic circulation and parking located around the perimeter of the lot. Referring to a rendered plan, Mr. Martin also noted the location of the 50' Columbia Gas easement on the property. He added that the large easement would provide an additional buffer for the properties in the adjoining Tuscany residential development.

Mr. Martin stated that condition #9 referred to the original plan submitted by the petitioner, which proposed to split-zone the property through the middle of the building. The staff has several concerns about split-zoning the property, so the

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petitioner revised his application and development plan in order to rezone the entirety of the property to B-4. Since the B-6P setback is no longer an issue, the listed condition #9 could now be deleted. Mr. Martin stated that the staff and the Subdivision Committee recommended this plan for approval, subject to the remaining eight conditions as listed on the agenda.

Petitioner Representation: Andy Holmes, Midwest Engineering, was present representing the petitioner. He made no formal comments, but nodded that the petitioner was in agreement with the staff's recommendations, when asked by the Chair.

Citizen Comments: There were no citizens present to comment on this request.

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 11-0 to approve MAR 2014-23, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Mr. Smith, and carried 11-0 to approve ZDP 2014-105, subject to the first eight conditions, deleting condition #9.

3. NICOL DEVELOPMENT CO., LLC, ZONING MAP AMENDMENT & HEADLEY SUBDIVISION, NORTH BROADWAY PARK ADDITION, CARR BUILDERS (EMBRACE UNITED METHODIST CHURCH) ZONING DEVELOPMENT PLAN

- a. MAR 2014-19: NICOL DEVELOPMENT CO., LLC (1/4/15)* – petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Mixed Use 2: Neighborhood Corridor (MU-2) zone, for 1.21 net (1.723 gross) acres; from a Neighborhood Business (B-1) zone to a Mixed Use 2: Neighborhood Corridor (MU-2) zone, for 0.420 net (0.652 gross) acre; and from a Wholesale and Warehouse Business (B-4) zone to a Mixed Use 2: Neighborhood Corridor (MU-2) zone, for 0.880 net and gross acre, for property located at 1001, 1003, 1011, 1015 and 1021 North Limestone Street.

COMPREHENSIVE PLAN AND PROPOSED USE

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The subject properties are located within the boundary of the Central Sector Small Area Plan (CSSAP), adopted by the Planning Commission in April 2009, specifically Subarea "D". The CSSAP recommends significant streetscape improvements along North Limestone, retention of North Limestone's unique character as a traditional neighborhood retail corridor, utilization of Best Management Practices for stormwater improvements, preservation of structures with historical and cultural value, and provision of adequate and quality affordable housing.

The petitioner proposes to redevelop the property for a mixed-income, mixed-use development that includes maintaining the church, constructing two buildings, and associated on-street and off-street parking. A total of 80 dwelling units, along with 5,200 square feet of non-residential space, are proposed within the two new buildings.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommends: **Approval**, for the following reasons:

1. The requested Mixed Use-2: Neighborhood Corridor (MU-2) zone is in agreement with the 2013 Comprehensive Plan, and the Central Sector Small Area Plan (CSSAP), for the following reasons:
 - a. The petitioner proposes a mixed-income, mixed-use development that maintains a cultural and historic church along the North Limestone corridor. Redevelopment plans include construction of two new structures with 80 dwelling units, 74% of which will be income-verified affordable units, and neighborhood-oriented land uses, such as a community center, coin-operated laundry and offices.
 - b. The subject property is located within Sub-Area D of the Central Sector Small Area Plan, and North Limestone has been designated as a "neighborhood connector" corridor within this particular area and a "focus area."
 - c. One priority of the Sub-Area is to "retain unique character of North Limestone as a traditional neighborhood retail corridor" and also indicates a need to upgrade the North Limestone streetscape and building façades.
 - d. Associated with the redevelopment, the petitioner proposes significant stormwater improvements to alleviate existing drainage issues in the vicinity.
 - e. The petitioner's proposed development will be a more efficient use of underutilized and vacant properties within the North Limestone corridor, and will be oriented to that minor arterial roadway.
 - f. Many of the Comprehensive Plan's Goals and Objectives are met by the petitioner's proposed rezoning and redevelopment of the subject property, including: to expand housing choices (Theme A, Goal #1); to support infill and redevelopment (Theme A, Goal #2); to encourage green infrastructure (Theme B, Goal #3); to support creation of a variety of jobs (Theme C, Goal #1); to encourage an entrepreneurial spirit and embrace a diverse

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- and inclusive community (Theme C, Goal #2); to build a multi-modal and comprehensive transportation system (Theme D, Goal #1); to enhance and protect cultural and historic resources (Theme D, Goal #3); and to uphold the Urban Services Area concept (Theme E, Goal #1).
- g. The Central Sector Small Area Plan encourages providing affordable housing, utilizing Best Management Practices for stormwater improvements, preservation of structures with historical and cultural value, and offering goods and services for local residents.
 2. This recommendation is made subject to the approval and certification of ZDP 2014-94: Headley Subdivision, North Broadway Park Addition, Carr Builders (Embrace United Methodist Church), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2014-94: HEADLEY SUBDIVISION, NORTH BROADWAY PARK ADDITION, CARR BUILDERS (EMBRACE UNITED METHODIST CHURCH) (1/4/15)* - located at 1001, 1003, 1011, 1015 and 1021 North Limestone.
(Vision Engineering)

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Provided the Urban County Council rezones the property MU-2; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Resolve proposed stormwater detention.
7. Resolve possible need for street improvements to north Broadway Park and 10th Street.
8. Resolve proposed front yard setback per Art. 28-4(f).
9. Resolve floor area ratio proposed on 1001-1003 North Limestone.
10. Resolve timing relative to compliance with Art. 28-4(h) for 1021 North Limestone.

Chairman Comments: Mr. Owens stated that the Planning Commission's time limits, which are listed on the agenda, would be used during this hearing due to the large number of citizens present. He said that the staff, applicant, and opposition representatives would each have 30 minutes in which to make their presentations. Citizen comments would be limited to three minutes each, with no "sharing" of time between speakers.

Zoning Presentation: Ms. Wade presented the staff's zoning report, noting that the staff had received four pieces of correspondence in opposition to this request, and two in support. She provided the correspondence to the Planning Commission for review. She explained that the petitioner is requesting to change the subject property to an MU-2 zone. The property, which is comprised of five parcels, is approximately 2.5 acres in size. The primary parcel is 1015 North Limestone Street, which is occupied by the Embrace Methodist Church. The church also owns 1003, 1011, and 1021 North Limestone Street. The fifth parcel, 1001 North Limestone Street, is currently owned by the petitioner. She identified the existing zoning for each tract.

Ms. Wade briefly oriented the Commission to the location of the subject property on a zoning map. It is located to the northeast of the intersection of North Limestone Street and Loudon Avenue. The general vicinity of the property is characterized by a mixture of residential and commercial uses, with the LexTran bus facility located nearby at the intersection of North Limestone Street and Loudon Avenue. Directly across from the subject property is Arlington Elementary School. Ms. Wade said that zoning in the area is comprised of Single Family Residential, along this portion of North Limestone Street as well as North Broadway Park and 12th Street; commercial zoning is located primarily along North Limestone Street only.

Ms. Wade displayed the following photographs of the subject property and surrounding area: 1) an aerial view, noting the existing church building, parking, and greenspace areas used for stormwater control; the existing non-conforming mobile home park; Arlington Elementary School, across North Limestone Street from the subject property; and the single-family residences in the adjoining neighborhoods; 2) a street-level view of the existing church; 3) a view of the single-family residence that was formerly used by the church as a parish house; 4) a view of the church building from North Limestone Street.

Ms. Wade stated that the petitioner proposes to redevelop the subject property with two new structures along North Limestone Street; maintain the existing church building; and use the portions along the rear of these parcels for surface parking for the new uses. The development plan proposes 76 dwelling units and approximately 5,000 square feet of non-residential space, mostly on the first floor of each of the two new buildings.

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Ms. Wade explained, with regard to the Comprehensive Plan recommendation, that the subject property is included in the Central Sector Small Area Plan (CSSAP), which was adopted by the Planning Commission in 2009 as an amendment to the 2007 Comprehensive Plan. The property falls within sub-area "D" of the CSSAP, which identifies North Limestone Street as a neighborhood connector street and suggests significant streetscape improvements for the area. It also identified North Limestone Street as a focus area for redevelopment and improvements, including as a specific priority for sub-area "D" to "retain unique character of North Limestone as a traditional neighborhood retail corridor." The Goals & Objectives of the CSSAP also provide guidance for the Planning Commission in considering this rezoning request, identifying four guiding principles:

- 1) Enhance the urban fabric;
- 2) Promote and prepare for redevelopment and investment;
- 3) Provide adequate and equitable housing; and
- 4) Preserve the cultural and historic heritage.

Ms. Wade stated that there are many Goals & Objectives of the CSSAP, but the staff found the following to be specifically applicable when considering this proposal:

- Encourage affordable housing
- Utilize Best Management Practices for stormwater improvements
- Preserve structures with historic and cultural value
- Offer goods and services for local residents

The 2013 Comprehensive Plan has several more Goals & Objectives that are relevant to this request, including:

- Expand housing choices
- Support infill and redevelopment
- Encourage green infrastructure
- Support creation of a variety of jobs
- Encourage the entrepreneurial spirit
- Embrace a diverse and inclusive community
- Build a multi-modal and comprehensive transportation system
- Enhance and protect our cultural and historic resources
- Uphold the Urban Service Area concept

Ms. Wade said that the petitioner identified many of these Goals & Objectives as being supported by this application. The staff agrees that the proposed MU-2 zone meets many of the Goals & Objectives of the Comprehensive Plan and the CSSAP. The staff is also supportive of the petitioner's proposal to utilize the provisions of the Zoning Ordinance related to mixed-income housing, which have not yet been put into practice in Lexington-Fayette County to date, despite having been in place for several years. In addition, the staff is appreciative of the petitioner's proposal to maintain the historic church, which has been a vital part of the North Limestone corridor and community for many years. Ms. Wade stated that the staff and the Zoning Committee recommended approval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary development plan, noting that it is a preliminary plan. Should the rezoning request be approved, the Commission would then have an opportunity to review a Final Development Plan for the property, prior to any new construction on the subject property.

Mr. Martin presented a rendering of the plan, noting the location of the existing church, the Arlington Elementary School campus, and the proposed new buildings. He said that the building depicted as "B" on the plan is proposed to be 46,000 square feet in size, and three stories in height, with a fourth story to be used as patio areas for the dwelling units on the top floor. Building "A" is proposed to be just over 18,000 square feet in size, with mostly non-residential uses on the first floor. Parking is proposed to the rear of the buildings, with access to North Broadway Park for the building "A" parking, and an access off of 10th Street for building "B." The petitioner is proposing to construct underground detention in order to control storm water runoff from the subject property as well as mitigate the existing stormwater issues previously identified in the area. Mr. Martin noted that the details of the underground detention would be determined at the time of a Final Development Plan for the property.

Mr. Martin said that building "B" is proposed to contain studio and one-bedroom apartments, with a similar mix of apartment types in building "A." The petitioner is proposing 76 total units, with 126 parking spaces. Once the petitioner takes the allowable parking deductions, the number of spaces will slightly exceed the Zoning Ordinance requirements. Building "B" is proposed to be just over 54 feet in height; building "A" is proposed to be over 40 feet in height. Mr. Martin noted that the existing church building is approximately 55 feet in height, so the proposed new buildings will be proportional in scale to the church.

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Mr. Martin stated that there were several issues that needed to be resolved on this plan, including the need for underground detention for stormwater control. Condition #7 refers to the possible need for street improvements to North Broadway Park and 10th Street, which the petitioner has verbally agreed to provide. A condition is also recommended to address the Zoning Ordinance requirements for mixed-use developments, with which the petitioner must be able to demonstrate compliance at the time of a Final Development Plan for the property. Condition #8 refers to the setback requirements of Article 28-4; the petitioner has indicated a 15' setback, but Article 28 permits a 5' setback for the first floor, with 15' for floors above the first floor. Mr. Martin explained that the 15' setback is important for the presentation of the building to North Limestone Street, and to maintain the necessary open space in the development. Condition #9 refers to the floor area ratio requirements of the Zoning Ordinance; and the petitioner will need to consolidate the separate lots into one prior to certification of a Final Development Plan in order to meet those requirements. Condition #10 addresses the mix of residential and commercial uses on the subject property, and the timing required by the Zoning Ordinance. Mr. Martin noted that that requirement is in place to prevent mixed-use developments from becoming a residential or commercial use only. He stated that the Subdivision Committee recommended approval of this plan, subject to the 10 conditions as listed on today's agenda.

Commission Question: Mr. Owens asked if all of the parking for building "B" is proposed to be located to the rear of that building. Mr. Martin answered that a few spaces are proposed for parking along 10th Street. He added that parking could be shared between commercial and residential uses in a mixed-use development. A few parking spaces are proposed for this use along North Broadway Park as well.

Petitioner Representation: Chris Westover, attorney, was present representing the petitioner. She agreed with Ms. Wade's assessment that the proposed development was the first to use the mixed-income guidelines since their creation several years ago. She said that the purpose of that text amendment was to encourage more diversity in housing.

Ms. Westover stated that the subject property is comprised of vacant, underutilized parcels, one of which has a significant stormwater problem that renders it undevelopable. The site has several other development constraints, including being surrounded by substandard streets, with North Broadway Park and 10th Street lacking curb, gutter, and sidewalks.

Referring to her exhibit packet, which was distributed to the Commission, Ms. Westover displayed a rendering of the proposed development. She explained that the petitioner is proposing to construct two new buildings, with small setbacks from North Limestone Street to provide a more urban streetscape. The rear portion of the property is proposed to be used for parking, in order to minimize the impact on surrounding properties. Referring to a photograph of ponding from stormwater runoff, Ms. Westover explained that the lot at 1001 North Limestone Street is "a big mud hole," which was acquired by LFUCG approximately seven years ago as part of a repetitive flood loss prevention program. The property was declared surplus, at which point it was purchased by the petitioner. It cannot be developed unless the petitioner can satisfy the staff of the Division of Engineering that their proposed underground detention will be of sufficient size to mitigate the runoff problems in that area. Flooding on the subject property also results in ponding of water on North Broadway Park.

Ms. Westover stated that 25 of the units in the proposed development will meet the Zoning Ordinance definition for "mixed-income housing." In addition, the units will be deed-restricted to ensure that the affordability carries on into the future. The definition of mixed-income housing requires that rents be no more than 30% of the renter's income; and the units will be available only to households that do not have incomes that exceed 80% of the local median income. The entire project is intended to be affordable, with rents in the \$400 - \$900 per month range, with all utilities included.

Ms. Westover said that the petitioner has met several times with area neighbors, including two meetings since the postponement of this application in November. The petitioner is grateful for having had the opportunity to consult with the neighbors, and he believes that the development plan has been improved as a result of those meetings. The petitioner is aware that the revised plan does not meet all of the neighbors' concerns, but is pleased to note that the plan now includes more landscaping at the rear of the property for the building closest to Arlington Elementary School. Also, following the neighborhood meetings, the petitioner "flipped" the proposed buildings, with the smaller structure located nearer the existing single-family residential units, and terraced patios on the roof. Neighbors indicated that they were concerned about residents of building "B" being required to cross North Broadway Park in order to reach the parking area for their building, so the petitioner has also provided a parking area directly to the rear of that lot.

Bruce Nicol, petitioner, stated that he is willing to make a \$5.4 million investment in the proposed development because he is a Lexington native who is passionate about providing "clean, safe, well-managed, sustainable, affordable housing." He said that his family has owned and managed affordable housing developments for decades.

Mr. Nicol opined that the proposed development would help to meet an as-yet unmet market demand; satisfy several of the community's planning goals; and help provide Embrace Methodist Church with funds for needed building repairs and essential community services. His company's research, which was submitted with Ms. Westover's exhibits, indicates deficit of 2,500 affordable rental units in Lexington-Fayette County, while demand for rental housing continues to grow due to demographic shifts in the population. Downsizing and retiring baby boomers, as well as members of the millenni-

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al generation, prefer downtown and inner-ring suburbs that are walkable and bikeable, with diverse populations. Mr. Nicol said that, in Lexington-Fayette County, nearly 40% of households rent; but there are not enough options for those renters, and the rental property available is not affordable. The majority of the units in the proposed development will have no income restrictions; 25% will be filled by individuals making 80% or less of the area median income. Providing those renters with truly affordable housing will allow them to use a greater amount of disposable income at existing neighborhood establishments, which would also attract new businesses.

Mr. Nicol stated that a renaissance is taking place in the North Limestone Street corridor, and he believes that the proposed development will contribute to that by providing safe, affordable housing in an area where very few such rental units currently exist. He said that Nicol Development will continue to own and manage the development on site. Including utilities in the cost of rent has also led the petitioner to explore LEED-quality developments, which require the company to retain ownership of the buildings in order to see a return on that initial high-quality construction investment. Consistent ownership and management, as well as lease covenants, help to control the number of residents in each unit, as well as retaining a better quality of tenants. Mr. Nicol noted that tenants will also be required to use assigned parking spaces.

Mr. Nicol said that the Comprehensive Plan and CSSAP both call for improving the neighborhood's infrastructure and stormwater runoff issues, while making a sustainable investment. He contended that the proposed development meets all of those goals, without displacing any residents. It will transform two "eyesore locations that turn into lakes after each rainstorm" into a productive development that will generate taxes over \$40,000 to the school system and mass transit budgets. In addition, the funds generated by the proposed development will provide a lifeline for Embrace Church, allowing for needed building repairs and enhancement of community services.

Mr. Nicol stated that he had made numerous good-faith efforts to meet neighbors' concerns, the result of which was the revised development plan, but the neighbors had decided to end their dialog. He noted, however, that he would continue to welcome their input through the Final Development Plan process for the subject property. The current zoning would otherwise allow a warehouse and gas station to be constructed on the property as soon as early January, without Planning Commission review. The petitioner contends that the proposed zone change will produce a much more desirable outcome for the city, its renters, and the surrounding neighborhood.

Van Meter Pettit, architect, stated that he and the petitioner followed four key principles during the design of the proposed development: sustainability; density; safe by design; and urban infill. Sustainability involves using resources, including land, wisely, which leads to economic benefits. The subject property has a great deal of value for urban infill, since all types of goods and services are available within walkable or bikeable distance. The petitioner is trying to optimally use the land by proposing higher-density development on the property, which also allows for on-site management. With regard to safety by design, Mr. Pettit said that, instead of providing internal circulation for the development via interior "lonely corridors," the petitioner is proposing to provide terraces for circulation around the buildings, helping to create a sense of community. Allowing more visibility for the terraces will make them inherently safer.

Holly Wiedemann, an infill developer, stated that she had been in the business of developing mixed-income/mixed-use projects for the past 25-30 years, and every one of her projects had increased the value of the properties surrounding it. Projects she participated in include: Midway School Apartments; Artek condominiums; and Parkside Apartments in Gardenside. The Artek project also helped to contribute to the revitalization of the Jefferson Street corridor, which has resulted in \$155 million of development in the area. The Parkside apartment project, which is designated as 100% affordable, also resulted in increased property values.

Ms. Wiedemann said that the petitioner is not proposing to use any of the typical funding sources for affordable housing, including tax credits; rather, it utilizes typical commercial financing. She opined that the proposed development will be an asset to the neighborhood, and to the community as a whole.

Ms. Westover stated that, although the proposed zone change did not meet the Zoning Ordinance requirements for a traffic study, the petitioner had a traffic summary prepared in order to address neighborhood concerns, and she introduced Matt Carter, Vision Engineering. Mr. Carter stated that, based on the zoning of the subject parcels that are currently vacant, the rear portion of the lot could be developed as warehouse uses, while the lot to the north of the church could be used for a convenience store. He noted that those uses could locate there and buildings could be constructed by simply obtaining a building permit, as Planning Commission approval would not be required. Based on those assumed uses, proposed trip generation for the subject property would be an additional 155 vehicle trips during the morning peak hour, with 185 additional trips in the evening peak hour. Mr. Carter stated that the trip generation predictions for the proposed development resulted in 75 morning peak hour trips, and 74 evening trips, or approximately one-half of the potential amount of traffic. He said that he had also performed a Level of Service (LOS) study for the proposed development, which indicated LOS "A" along North Limestone Street for morning and afternoon hours.

Chuck Gootenson, Embrace Church, read the following:

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"While you've heard from a number of voices about the benefits to the Central Sector, I want to comment briefly about how this project will put Lexington at the cutting edge of how urban renewal can be coupled with renewal of faith communities. In the 1950s, the average size house was around 1,100 – 1,200 square feet. Communities with houses of that size and larger were considered solidly middle and upper-middle class. Those areas, then were ideal for locating faith communities, and thousands of them were built across the United States, in areas just like the area where Embrace United Methodist Church is located now.

These churches were built in the late 1940s and early 1950s; they were large; they were beautiful; and they were traditional in design. Built in the days of low energy costs, they were also not very space or energy efficient. Now, fast forward through the next few decades, and we pass through rapid growth in energy costs and the phenomenon of urban flight. The consequence is that churches, which were flagships to their denominations in the 1950s, have become very costly to maintain and power. Further, urban flight has left them with a decaying giving base that is increasingly unable to support them. Today, we have those thousands of faith communities struggling to stay alive, often attempting to maintain their ministries by balancing their budgets on deferred maintenance. Consequently, the buildings are frequently in serious need of repair and updating, but the size and financial strength of the corresponding congregations are often inadequate to the task. This has led congregations to close down the ministries in those local areas; to sell their properties to whomever they can; and often, either relocate or dissolve altogether.

The Arlington project is an example of a highly desirable and viable option to those outcomes. The need in the North Limestone area for secure, cutting-edge housing that is affordable has been well documented and addressed by speakers before me. In addition, we've also talked about the fact that the project will provide a much-needed economic shot in the arm for the area. However, the issue that I want to make sure isn't overlooked is the extent to which the Arlington project can become a model of urban renewal which breathes life into struggling faith communities. The sale of the Embrace property will provide working capital that can be utilized by the church to upgrade its outdated, struggling physical plant. Additionally, the demographic to which Arlington Studios is most likely to appeal is an ideal demographic for reconstituting a healthy and growing ministry base. I have been involved with this project from early on, and I grow increasingly persuaded that the development of the Arlington Studios will become a model that we can deploy across the country, helping faith communities and urban areas to enjoy renewal through collaboration.

I've also been involved in teaching the next generation's ministers for more than 15 years now. And, as I discussed this proposed project with past students, they inevitably see the potential for their own local communities. I think it would be a great thing if we could say to some of those pastors, 'Come on down and see what we're doing in Lexington, and let's see how we can put those to practice in your own areas.' I believe this project will be a win-win for involved, and I encourage the council's approval."

Ms. Westover concluded their presentation by entering two letters of support into the record, along with her exhibit book, including several reports indicating that there is a need for more affordable housing in Lexington-Fayette County. She opined that, if more affordable housing cannot be provided in this county, residents will be forced to move to smaller, outlying counties. Ms. Westover stated that affordable housing is a critical economic development and policy matter, and both the Council and the Planning Commission need to be paying attention to it.

Citizen Support: Chip Singleton, trustee at Embrace Church, stated that he believes that the proposed development could be a "kickstarter" for the North Limestone Street area. He said that the church has struggled financially; the capital gained through this project could provide enough funds to refurbish the interior, which could allow the church to hold weddings and other events. The stormwater improvements required for the proposed development could also provide a solution to an existing problem for the church.

Mark Davis, pastor of First Presbyterian Church, stated that vital faith congregations are important to the communities in which they are located. He said that many older church buildings are in disrepair; when congregations dissipate, the buildings they leave behind become a burden on the community. Rev. Davis stated that projects such as the proposed development can offer a great deal of potential for a community. He added that he had served on the steering committee for Mayor Gray's Commission on Homelessness, and he believes that the proposed development fits with those efforts as well.

Note: Chairman Owens declared a brief recess at 3:06 p.m. The meeting reconvened at 3:12 p.m.

Citizen Opposition: Drew Shackelford, 2015 president of the North Limestone Neighborhood Association, submitted a petition with nearly 100 signatures from residents who do not believe that the petitioner has been a good neighbor.

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Ms. Shackleford stated that many members of the North Limestone NA indicated that they do not believe that the proposed MU-2 development would fit in with their current way of life. They also believe that the petitioner has made “deliberate efforts to minimize and marginalize” their involvement with the development process.

Ms. Shackleford read the following, from the 2013 Comprehensive Plan: “Include neighborhood groups early in process.” She said that the petitioner only notified some of the residents in the neighborhood of the upcoming hearing, and that notification was received less than a month prior to the meeting. Many residents feel that the petitioner has avoided addressing their specific concerns about the proposed development.

Ms. Shackleford read from the 2013 Comprehensive Plan that infill and redevelopment should “help a neighborhood achieve a mix of use that supports and enhances a citizen’s daily life.” The area residents are concerned about additional traffic, particularly given the proposed development’s proximity to Arlington Elementary School. At one of the neighborhood meetings with the petitioner, residents requested independent, third-party traffic study data. The petitioner indicated that their engineers were in the process of conducting a study; however, residents do not believe that the study methodology was sufficient, and they were not provided with the data prior to today’s hearing.

Ms. Shackleford stated that the residents do not agree with Mr. Nicol’s assertion that they had cut off dialog; on the contrary, they believe that the petitioner has not adequately responded to their concerns and requests for dialog.

Roy Cornett, 136 Glenn Place, stated that he is concerned that the proposed development is not appropriate for the MU-2 zoning classification. He said that the Zoning Ordinance and Comprehensive Plan indicate that Mixed-Use zoning is to provide for and promote five main tenets:

- “Provide neighborhood-based employment opportunities;
- Provide support services to enhance the livability of the neighborhood;
- Revitalize established neighborhood commercial centers;
- Promote quality infill and development;
- Promote pedestrian-friendly neighborhoods.”

Mr. Cornett said that three of those five tenets deal directly with the non-residential component of a mixed-use development. He opined that the non-residential component of the proposed development barely meets the minimum requirement, and is “just there to be able to construct a far higher-density residential space than would otherwise be permitted by law” in Lexington-Fayette County. At the first neighborhood meeting, Mr. Cornett asked the petitioner what type of businesses he expected to locate in the non-residential space; the petitioner responded that he would like to have input from area residents on the type of business they would prefer. At the next meeting, when residents raised concerns that the space could be left vacant, the petitioner indicated that he could possibly locate his office there. Mr. Cornett opined that it is clear that the non-residential component is not critical to this project. He stated that residents are concerned that the non-residential space in the proposed development might never be filled, as has been the case with over 90% of the commercial space in The Lex mixed-use development on South Broadway.

Mr. Cornett stated that, in a Winter & Company report commissioned by LFUCG to study mixed-use development in the community, the first page referred to a need to be concerned about the incompatible scale of mixed-use, multi-family housing in traditionally single-family areas. The neighborhood residents do not believe that the proposed “dormitory-style” development will be compatible with the single-family nature of the North Limestone Street neighborhood, and that it will harm the “character, charm, and livability” of the neighborhood. Mr. Cornett said that he and his neighbors are not opposed to higher-density development, but they want it to be responsible and respectful of the neighborhood. He read the following quote from *Lexington Herald-Leader* columnist Tom Eblen: “When city officials and residents make it clear that mediocre design is no longer good enough for Lexington, developers will listen. If the city wants design excellence and context-sensitive infill, then we must insist on it.”

Don Bolton, 114 North Broadway Park, stated that he believes that the proposed development will “destroy the character of the neighborhood.” He does not believe that the petitioner’s traffic study took into account the residents of North Broadway Park and 10th Street, where there are no curbs, gutters, or sidewalks. He said that the Planning Commission “cannot let this happen.”

David Todd Singleton, 107 North Broadway Park, stated that his residence is directly adjacent to building “A” of the proposed development. He said that he is concerned that the proposed development will “take away the only greenspace left in the area.” Mr. Singleton stated that a great deal of work had been done in the North Limestone area to take back the streets from drugs, and he does not want those efforts to be destroyed.

Mr. Singleton said that he and other residents are concerned about the safety of clients walking to and from the nearby Hope Center, as well as children and parents walking to Arlington Elementary School. There have been several instances of children being hit by cars.

Mr. Singleton stated that, contrary to the petitioner's assertion, Embrace Church is not actually a vital part of the North Limestone Street corridor. Their bus has been carjacked several times, and they "have no control of the outreach programs" they have implemented. Parishioners often "flood the streets" after services, blocking traffic.

Mr. Singleton displayed a video of typical afternoon traffic around Arlington Elementary School, noting that there are a large number of cars lined up along North Limestone Street in front of the school.

Mr. Singleton opined that the petitioner "is not sensitive to the needs of the neighborhood," but wants the Planning Commission to believe that the proposed development will be an asset to the community. He stated that the proposed density is too high for the existing neighborhood, where the streets cannot be widened. Mr. Singleton said that the proposed development might meet the letter of the law, but it is "actually a deal-breaker."

Donnie House, 118 North Broadway Park, stated that he was concerned that the proposed development could set a precedent, and that other vacant corner lots in the area could be developed with large mixed-use projects as well. He said that allowing a "dark, multi-story" development four stories in height could be detrimental to the charm of the existing neighborhood. The church and school, two of the cornerstones of the neighborhood, would be "dwarfed" by the high-density development. Mr. House asked the Planning Commission to use caution and consider the nature of the existing neighborhood in making their decision.

Carmen Norris, 130 North Broadway Park, stated that she is passionate about affordable housing and was excited to hear that the proposed development would offer such accommodation. She does not believe, however, that the proposed development was thoughtfully done; and she is concerned that it does not respect its future tenants, due to the proposed small size of the apartment units.

Ms. Norris said that parking along North Broadway Park creates traffic issues, and she is concerned that residents of the proposed development could exacerbate the situation. On-street parking also creates hazards for pedestrians, since there are no sidewalks in the vicinity.

Ms. Norris opined that it does not make sense to locate an apartment development intended for single occupancy across from an elementary school, since families are unlikely to locate there. She added that very few residents walk in the North Limestone Street area.

Joe Goebeler, 126 North Broadway Park, stated that he has a Master's degree in Historic Preservation, and he does not believe that the proposed development will fit with the scale of the existing neighborhood. He said that all of the other buildings in the North Limestone area are two stories in height; the proposed four-story building will be taller than the steeple of the church.

Mr. Goebeler said that he does not agree that the proposed development will be mixed-income, since it is proposed to be primarily 300 square-foot, single-occupancy studio apartments. He opined that the trailer park and most of the surrounding neighborhood already provide affordable housing, so he does not believe that there is a need for the proposed development.

Ron Bradley, 107 North Broadway Park, stated that the drainage problems on the subject property do create an eyesore that needs to be mitigated. He said that area residents were glad to hear that the mitigation of those issues would be part of the proposed development, but they "freaked out" when they saw the details of this project. Mr. Bradley opined that the proposed development will not be in character with the look or feel of the existing neighborhood, particularly the historic buildings in the area.

Mr. Bradley said that the original version of the development plan depicted building "A" as being located directly adjacent to his back yard. He does not agree with the petitioner's contention that many of the residents of the proposed development will not have cars, and he is concerned that additional on-street parking could exacerbate an existing problem for the area.

Mr. Bradley stated that he believes that the intent of the proposed development is to "pack in as much density as possible," and the North Limestone Street area does not need the additional housing.

Petitioner Rebuttal: Ms. Westover stated, with regard to the comments about reducing density in the proposed development, that the petitioner heard that area residents could support the project if the density were halved. She noted, however, that it would not be possible to develop the subject property with half the density, and it would likely require the use of the greenspace that the petitioner intends to provide for Seedleaf to use as a community garden. It would also eliminate the petitioner's ability to have on-site management for the development, since an economy of scale is required.

Ms. Westover asked Mr. Pettit to address the citizen comments about the height of the proposed buildings and the scale of the neighborhood. Referring to an exhibit shown on the overhead projector, Mr. Pettit stated that the smaller building is proposed to be 36' in total height, or 9' taller than the nearest multi-family structure. The petitioner waited a year to acquire the property at the corner of 10th and North Limestone Streets, in order to keep the building mass on that lot so that it would not cast shadows on the single-family residences on North Broadway Park. The height of the building will not exceed that of the church, and the building nearest North Broadway Park was scaled down to meet neighborhood demands. Mr. Pettit noted that the fourth story of the building will be set back, so that it might not be visible from the streetscape nearby.

Mr. Carter stated, with regard to the comments about traffic accidents in the vicinity of the subject property, that the petitioner did review the police accident reports for the area. In reviewing a 0.8-mile stretch of North Limestone Street, the data indicated that there were 39 traffic accidents. Within the school zone area, there were only five accidents, which is 50% below the state average.

Ms. Westover stated, with regard to the traffic impact on North Broadway Park, that residents of the proposed development would be unlikely to use North Broadway Park. Mr. Carter added that the traffic study indicated that there is not a great deal of traffic on North Broadway Park. Ms. Westover said that, since the North Broadway/North Broadway Park intersection is not signalized, it would be easier for residents of the proposed development to use Loudon Avenue to access North Broadway. She added, with regard to parking on North Broadway Park, that the right-of-way for that roadway is rather wide.

Ms. Westover concluded by reiterating that, under the current zoning, the subject property could be developed for major or minor truck repair; a warehouse; a truck terminal, or any number of other high-impact uses. The petitioner contends that the proposed mixed-use development will lend itself much more to the character of the neighborhood.

Opposition Rebuttal: Mr. Cornett stated that he does not agree with the petitioner's contention that traffic from the proposed development will not use North Broadway Park, since the access for the building "A" parking lot is to be on North Broadway Park. He added that the petitioner's rebuttal did not address any of the residents' concerns.

Mr. Singleton stated, with regard to the comments about North Broadway Park, that it currently receives traffic from the mobile home park and other area residents, as well as drivers visiting Whitaker Bank Ballpark. He does not believe that the infrastructure on North Broadway Park is sufficient to accommodate 200 new vehicles daily from the proposed development.

Mr. Bolton reiterated that there are no curbs, gutters, or sidewalks on 10th Street or North Broadway Park.

Mr. Goebeler stated that he does not agree with the petitioner's contention that the proposed buildings will be in scale with the existing one-and-a-half story single-family homes in the area. He added that the petitioner would be removing a historic bungalow on North Limestone Street to construct the proposed development.

Staff Rebuttal: Ms. Wade stated, with regard to the comments about notification of residents, that notification was provided per the requirements of the Kentucky Revised Statutes and the Zoning Ordinance. She explained that the notification was reviewed and corrected upon filing of the application, and it was sent as soon as it was possible. Typically notice is sent approximately one month prior to the Planning Commission hearing. In this instance, over 150 notification letters were sent, along with three neighborhood association notices.

Ms. Wade said, with regard to the infrastructure on North Broadway Park, that sidewalks would be constructed by the petitioner along the frontage of the subject property, as well as along their property frontage on 10th Street.

Ms. Wade stated that the petitioner's application for rezoning to MU-2 meets all the locational criteria of the Zoning Ordinance.

Commission Questions: Mr. Penn asked if sidewalks would be provided on both sides of North Broadway Park. Ms. Wade responded that sidewalks would be constructed on both sides of North Broadway Park, but only along the frontage of the subject property. She explained that improvements along the rest of the right-of-way would be incumbent upon the LFUCG to complete.

Mr. Wilson asked what could be constructed on the subject property under the current zoning. Ms. Wade answered that the North Broadway Park parcel is zoned B-1, so the petitioner would be allowed to construct restaurants; general retail stores; general offices or medical/dental ones; or a number of other business uses. The R-1C zone would allow only single-family homes, while the B-4 zone, at the rear of the subject property, would allow mini-warehouses; shops of special trade, such as plumbers; and other storage or distribution uses. Mr. Wilson asked if auto repair or truck terminals would be allowed. Ms. Wade answered that while a truck terminal would be allowed, it would be unrealistic, given the small size of the property.

Mr. Drake asked for the width of the B-1 parcel. Ms. Wade responded that the petitioner's development plan depicts that parcel as having 125' of frontage along North Limestone Street, and 145' of frontage along North Broadway Park. Mr. Drake asked for the same information for the B-4 parcel. Ms. Wade answered that that parcel is 100' wide, and 284' deep.

Ms. Plumlee asked how the occupancy of the proposed development will be controlled. Ms. Westover responded that the number of occupants in the units will be controlled by the lease, as will the parking. Residents will be assigned designated parking spaces, and other criteria will be placed in the lease to ensure that they will be good citizens and neighbors.

Ms. Plumlee asked if the petitioner has obtained any tenants for the commercial portion of the development. Ms. Westover answered that the MU zone allows for non-residential, Professional Office and business uses. She said that the petitioner will have some of his offices there, at a minimum, and he did ask the neighbors for suggestions as to the types of commercial uses they would like to have located there. The petitioner has considered a bakery, small restaurant, or coffee shop; in addition, the church is requiring deed restrictions to ensure that the commercial uses on the property will be good neighbors for the residential area.

Ms. Plumlee asked where the petitioner proposes to install landscaping on the subject property. Mr. Pettit responded that the development plan includes room for evergreen plantings along the property boundaries that are adjacent to single-family residences.

Mr. Owens asked Ms. Kaucher if the Division of Traffic Engineering had any concerns about the proposed development plan. Ms. Kaucher responded that Traffic Engineering had reviewed the proposed development plan, and had no concerns about traffic issues. She said that signage, lighting, and crosswalks were in place to direct traffic for Arlington Elementary School; and crossing guards are in place during arrival and dismissal times for students. She added that the Traffic Engineering staff is not unconcerned about the children in the area, but they believe that the existing situation is being handled well; and they do not believe there will be a great deal of additional impact from the proposed development.

Mr. Owens asked if there are existing on-street parking spaces on North Broadway Park and 10th Street. Ms. Kaucher answered that she had discussed on-street parking with the petitioner. She said that the development plan currently depicts parallel parking on the east side of North Broadway Park, closest to building "A," with perpendicular parking on the other side of the street. Traffic Engineering staff did request a note be added on the development plan to resolve the question of perpendicular parking, since the City does not permit cars backing into the right-of-way. Ms. Kaucher said that the petitioner was aware of those concerns and that they would need to be resolved on the Final Development Plan. With regard to 10th Street, she said that the plan depicts only parallel parking spaces, which do not concern the Traffic Engineering staff, provided the spaces meet the required distance from the North Limestone Street intersection.

Mr. Berkley asked, with regard to the uses allowed under the current zoning of the subject property, if they would be higher traffic generators than the proposed mixed-use development. Ms. Kaucher agreed that the traffic generated would be comparable.

Zoning Motion: A motion was made by Mr. Berkley and seconded by Mr. Cravens to approve MAR 2014-19, for the reasons provided by staff.

Discussion of the Motion: Ms. Plumlee thanked the neighbors for their comments, noting that the Planning Commission listens to residents' concerns, but there are certain considerations by which they must abide.

Mr. Penn stated that he was concerned about the density of the proposed development, which he believes is too high for the property, and about the viability of the commercial portion. He said that he supports mixed-use zoning, because he believes infill is important, but it must be of the appropriate scale.

Mr. Owens commented that he always considers infill projects very seriously, since the community needs to utilize land within the Urban Service Area wisely. He said that he believes that the proposed development will use the land wisely, and that most of the residents' concerns have been resolved. Mr. Owens stated that he supports the mixed-use concept, and he thanked the citizens for their participation, which he believes is important to the process.

Zoning Action: Mr. Berkley's motion carried, 6-5 (Drake, Mundy, Penn, Plumlee, and Smith opposed.)

Development Plan Action: A motion was made by Mr. Berkley, seconded by Mr. Cravens, and approved 8-3 (Penn, Plumlee, and Smith opposed) to approve ZDP 2014-94, subject to the 10 conditions as listed on the agenda.

VI. COMMISSION ITEMS

- A. **PFR 2014-6: STAFF REPORT ON FAYETTE COUNTY PUBLIC SCHOOLS' ACQUISITION OF PROPERTY FOR NEW ELEMENTARY SCHOOL CONSTRUCTION** – a Public Facility Review for Fayette County Public Schools' acquisition of property at 2441 Huntly Place (formerly a portion of 2250 Georgetown Road) for construction of a new elementary school.

SUMMARY FINDINGS: There is currently no land use recommendation for the subject property other than what was recommended in the Land Use Element of the 2001 and the 2007 Plans (Professional Service/Office use), which reflects the zoning of the property since its re-zoning from A-U to P-1 in 2001. A school for academic instruction is a principal permitted use in the P-1 zone, which, in conjunction with the Goals, Objectives and text of the *2013 Comprehensive Plan*, and *Destination 2040*, provides support for the location of a new elementary school at this location.

STAFF RECOMMENDATION: It is noted on the site plan submitted with the request for a Public Facility Review that Best Management Practices will be observed during construction, with regard to erosion and sediment control. It is recommended that the contractor adhere to that. It is also recommended that some level of LEED certification be pursued in the construction of the school and the development of the property.

Based on the proposed grading of the property, it appears that there is an area between the proposed building and Georgetown Road that could serve as a detention basin, although it is not labeled as such. It is recommended that, prior to issuance of a building permit from the Division of Building Inspection, a plan for stormwater management be submitted to the Division of Engineering for review in order to not create any stormwater problems for either the subject or the surrounding residential properties.

A final recommendation would be that the property be landscaped and screened, consistent with zone-to-zone and vehicular use area screening requirements of Article 18, subject to approval by the Division of Building Inspection during the permitting process.

Staff Presentation: Ms. Rackers presented the staff report for this Public Facility Review, briefly orienting the Commission to the location of the subject property near the intersection of Georgetown Road and Spurr Road. The new elementary school is proposed to be located on Huntly Place in the Coventry subdivision. The property is currently zoned P-1, which does allow schools for academic instruction as a principal permitted use. The surrounding zoning is a mix of residential, commercial, office, and agricultural.

Ms. Rackers stated that the 2013 Comprehensive Plan does not make land use recommendations for specific properties; however, the staff considered the land use recommendations of the 2001 and 2007 Comprehensive Plans, both of which recommended Professional Services use for the property.

Ms. Rackers said that the subject property is 14.99 acres in size, and the new building is proposed to be nearly 74,000 square feet in size. Referring to the submitted site plan for the property, she noted that two parking areas are also proposed, both of which will be accessed from Huntly Place. A total of 130 parking spaces is proposed, with one area for staff and overflow parking; the other is proposed to be used for bus and parent drop-off, as well as additional parking.

With regard to the 2013 Comprehensive Plan, Ms. Rackers explained that it contains some discussion regarding Fayette County Public Schools (FCPS). The 2001 and 2007 Comprehensive Plans provide more details about the school system's future needs and plans. The 2001 Plan discusses at length the provision of schools within Fayette County, including the bussing plan. Ms. Rackers read the following, from that Plan:

"The need for bussing, plus large numbers of new students in specific parts of the community, builds a case for constructing new schools, even though overall enrollment increases may not be great. The imbalance between underutilized facilities needing extensive renovation in older parts of the urban area, and the underserved areas of new growth, indicate that new construction at a new location might better serve the community than extensive renovations to underutilized schools."

The provision of new schools was also discussed in the 2007 Comprehensive Plan. Ms. Rackers noted that all of the schools that were proposed at the time of these two Plans are currently open and operational. The 2013 Comprehensive Plan refers to a need for two new high schools; a middle school; and four new elementary schools, including this proposal. All of those projects are currently in some stage of development. Ms. Rackers said, with regard to the 2013 Comprehensive Plan Goals & Objectives, that five pertain to this proposal, all of which are listed in the staff report. The Community Facilities section of the Comprehensive Plan states that "a desirable community must possess quality public and semi-public services," one of which is schools. It also indicates that those services must be available to citizens, and that the provision of quality services helps to improve Lexington-Fayette County.

Ms. Rackers stated that there are currently 34 elementary schools in the FCPS system, serving 16,500 students. The FCPS facilities plan calls for the construction of new elementary schools to meet increasing demand, which is supported by both the Comprehensive Plan and Destination 2040. One statement in Destination 2040 notes that "if certain elements are not present for a community to be viable and a desirable place to live, people will move elsewhere." The subject property is located in a portion of

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Georgetown Road where there are both existing and newly-developing subdivisions. This proposed school will likely serve older and newer subdivisions, and has come into play during the discussions for the redistricting effort that is currently underway in the school system.

Ms. Rackers stated that construction of the new school is scheduled to begin in March, with an anticipated completion date of July or August of 2016. The construction plans are nearing completion, but no information was provided to the staff as to the type of materials that will be used, other than concrete and asphalt for the walkways and parking area. FCPS did indicate that Best Management Practices will be used for erosion and sediment control during grading. The staff hopes that FCPS intends to pursue some level of LEED certification for the project, as was the case in several of its recent construction projects, but no information was provided to indicate that that certification is part of the plans.

Ms. Rackers stated that, according to the 2013 Comprehensive Plan, FCPS has invested over \$117 million in new construction and renovation projects, and over \$23 million in site improvements. This proposed school is one of several new building projects that will help FCPS attain their 2020 goal of becoming a world-class school system. Ms. Rackers said the staff finds this request to be in compliance with the Comprehensive Plan, as well as the regulations of the Zoning Ordinance, and makes four basic recommendations as listed in the staff report and on the agenda.

Fayette County Public Schools Representation: Marcus Hylen, architect, stated that the proposed school building will be constructed of masonry and brick veneer, with pitched gable roofs with a metal finish. The bus stacking area at the front is designed to accommodate up to 14 busses, at the direction of FCPS. The site has been designed to minimize environmental impacts, including an underground detention system to be located under the front parking area.

Mr. Hylen noted that the plans had been submitted to several LFUCG divisions for review, and they were scheduled for the Building Inspection Review Board meeting the following week.

Commission Questions: Ms. Mundy asked if the building would be LEED certified. Mr. Hylen answered that it would not, but provisions had been made for the management of construction waste.

Mr. Owens stated that several of the FCPS projects reviewed by the Commission had been LEED certified, and asked why FCPS opted not to pursue such certification for this new school. Mr. Hylen answered that one of the major reasons for not pursuing LEED certification is the higher cost involved; he noted, however, that all FCPS buildings are designed to a high standard, in excess of energy codes that went into effect in October 2014. Mr. Owens noted that he would love to see FCPS pursue more LEED projects.

Action: A motion was made by Mr. Penn, seconded by Mr. Mundy, and carried 10-0 (Cravens absent) to recommend that this request is in compliance with the Comprehensive Plan.

- B. PLANNING COMMISSION WORK SESSION** – A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 10-0 to close this portion of the hearing and enter a work session to review information from the Long Range Planning section on two Small Area Plans.

VII. STAFF ITEMS

- A. PROPOSED UPDATE TO THE LFUCG PLANTING MANUAL** – Ms. Wade stated that the Lexington Tree Board had been working to make revisions to the LFUCG Planting Manual, including updates to the text and the acceptable and unacceptable plant materials lists. Those updates include amending the text to include information on how to plant trees, and cross-references with the Subdivision Regulations and Zoning Ordinance on when trees are required to be planted. The bulk of the manual is devoted to the list of acceptable and unacceptable trees and ground cover, and that portion has been the primary focus of the Tree Board's efforts.

Ms. Wade noted that a summary of the proposed changes had been distributed to the Commission members. She said that the changes involved adding trees; deleting trees; and moving some trees to a different size category. A lot of work was done with Dave Leonard, a local arborist, and Bill Fountain, a UK professor, to provide more detailed information in the tables about the characteristics of the trees.

Ms. Wade explained that this information was being brought to the Planning Commission because they are required to adopt changes to the Planting Manual as it is referenced by the Zoning Ordinance and Subdivision Regulations. She added that notice would be sent to all registered neighborhood associations, in the same manner as notice is provided for most text amendments.

Mr. Queary stated that the Tree Board is also interested in reprinting the Planting Manual, which was last printed in 1983. The Tree Board intends to draft a Request for Proposal for a printer to reformat and update the graphic illustrations in the Manual.

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Commission Questions: Ms. Plumlee asked what percentage of canopy cover currently exists in Lexington-Fayette County, and how that percentage compares to the goal. Mr. Queary responded that the current cover is 24.6%, noting that a goal percentage has not been set. He added that the national average is about 40%. Ms. Plumlee asked if there are any enforcement procedures in place to require replacement of dead trees in subdivisions. Mr. Queary answered that measures are in place. He added, however, that it is very challenging to require the replacement of street trees. The Tree Board has been requesting the re-establishment of the Landscape Examiner position within LFUCG for some time, so that these types of issues could be better addressed. That responsibility currently falls under the purview of the Division of Building Inspection, but enforcement action is taken on a complaint basis only.

Mr. Berkley asked if the Tree Board considers cost as part of their recommendation for the acceptable tree list. Mr. Queary responded that the Tree Board does take cost under consideration, with the knowledge that developers will likely choose the least expensive trees. Those choices often result in a monoculture of tree species within a development, which creates an ongoing challenge.

Mr. Owens stated that many street tree plantings do not appear to meet the minimum caliper (size) requirement, resulting in many years of immature plantings in some areas. Mr. Owens asked if we should consider requiring 2" caliper trees. Mr. Queary answered that street trees are required to be 1.75" caliper. Most street trees are planted by developers, at a large cost, so they tend to choose the smallest possible trees, which are a bit more drought tolerant. He added that requiring the planting of larger trees might result in fewer trees being planted.

Citizen Comment: There were no citizens present to comment on this matter.

Action: A motion to initiate a change to the LFUCG Planting Manual was made by Mr. Penn, seconded by Ms. Plumlee, and carried 10-0 (Cravens absent).

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR January, 2015

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 8, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	January 8, 2015
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 15, 2015
Planning Commission Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 22, 2015
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 28, 2015
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 29, 2015

X. ADJOURNMENT – There being no further business, Chairman Owens declared the meeting adjourned at 4:45 p.m.

TLW/TM/CT/BJR/BS/src

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